IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

MFA.No. 286 of 2002()

WCC.109/1995 OF COMMISSIOENR FO R W ORKMEN'S COMPENSATION , KOZHIKODE
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APPELLANT: APPLICANT

ILLIKKAL UMMER S/O.ALIKOYA,EDAVANNA P.O.
MALAPPURAM.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: OPPOSITE PARTIES
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1. K.ABDUL MAJEED,S/O.KUNHAHEMMED KUTTY,
KANHIRALA HOUSE,PARAKAMANNA,EDAVANNA,
MALAPPURAM DISTRICT.

2. UNITED INDIA INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE,COURT ROAD,MANJERI.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 286 of 2002

Dated this the 23rd day of October , 2007.

JUDGMENT

Koshy, J:

The appellant met with an accident during the course of employment and he claimed compensation contending that he was receiving Rs.2500/- as monthly salary and he has suffered 30% disability. The Commissioner for Workmen's Compensation on evidence and facts found that the accident occurred during the course of employment and workman is entitled to Compensation. Considering the medical certificate produced, 30% loss of earning capacity was assessed by the Commissioner. The only ground urged is that Rs.1000/- was taken as the monthly wage. The accident occurred before the Workmen's Compensation Act was amended by Act 30 of 1995. In K.S.E.B. v. Valsala (AIR 1999 SC 350), the Apex Court held that compensation has to be calculated on the basis of the provisions of the Act existing on the date of accident. On the date of accident, the maximum salary that can be taken by the Commissioner is only Rs.1000/- per month. Hence, the calculation made by the Commissioner is correct. There is no substantial question of law.

Appeal is dismissed.

J.B.KOSHY,
JUDGE.

K. HEMA,
JUDGE.

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 286 of 2002

Dated this the 23rd day of October , 2007.

JUDGMENT